

House File 747 - Introduced

HOUSE FILE _____
BY COMMITTEE ON ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 57)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act modifying provisions applicable to facilities qualifying
2 for wind energy production and renewable energy tax credits
3 and including effective and retroactive applicability
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1649HV 83
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1 1 Section 1. Section 476B.1, subsection 4, paragraph d, Code
1 2 2009, is amended to read as follows:
1 3 d. (1) For applications filed on or after March 1, 2008,
1 4 consists of one or more wind turbines connected to a common
1 5 gathering line which have a combined nameplate capacity of no
1 6 less than two megawatts.

1 7 (2) For applications filed on or after July 1, 2009, by a
1 8 private college or university, community college, institution
1 9 under the control of the state board of regents, or public
1 10 hospital as defined in section 249J.3, for the applicant's own
1 11 use of qualified electricity, consists of wind turbines with a
1 12 combined nameplate capacity of three-fourths of a megawatt or
1 13 greater.

1 14 Sec. 2. Section 476B.4, Code 2009, is amended to read as
1 15 follows:

1 16 476B.4 ~~LIMITATIONS~~ LIMITATION.

1 17 1. ~~The wind energy production tax credit shall not be~~
~~1 18 allowed for any kilowatt-hour of electricity produced on wind~~
~~1 19 energy conversion property for which the owner has claimed or~~
~~1 20 otherwise received for that property the benefit of special~~
~~1 21 valuation under section 427B.26 or section 441.21, subsection~~
~~1 22 8, or the exemption from retail sales tax under section~~
~~1 23 422.45, subsection 48, Code Supplement 2003, or section 423.3,~~
~~1 24 subsection 54, as applicable.~~

1 25 2. ~~The wind energy production tax credit shall not be~~
1 26 allowed for any kilowatt-hour of electricity that is sold to a
1 27 related person. For ~~purpose~~ purposes of this ~~subsection~~
1 28 ~~section~~, persons shall be treated as related to each other if
1 29 such persons would be treated as a single employer under the
1 30 regulations prescribed under section 52(b) of the Internal
1 31 Revenue Code. In the case of a corporation that is a member
1 32 of an affiliated group of corporations filing a consolidated
1 33 return, such corporation shall be treated as selling
1 34 electricity to an unrelated person if such electricity is sold
1 35 to such a person by another member of such group.

2 1 Sec. 3. Section 476B.5, subsection 4, Code 2009, is
2 2 amended to read as follows:

2 3 4. The maximum amount of nameplate generating capacity of
2 4 all qualified facilities the board may find eligible under
2 5 this chapter shall not exceed ~~four~~ one hundred fifty megawatts
2 6 of nameplate generating capacity.

2 7 Sec. 4. Section 476B.6, subsection 1, Code 2009, is
2 8 amended to read as follows:

2 9 1. a. If a city or a county in which a qualified facility
2 10 is located has enacted an ordinance under section 427B.26 and
2 11 an owner has filed for and received special valuation pursuant
2 12 to that ordinance, the owner is not required to obtain
2 13 approval from the city council or county board of supervisors
2 14 to apply for the wind energy production tax credit pursuant to
2 15 subsection 2.

2 16 a. b. (1) To be eligible to receive the wind energy
2 17 production tax credit, If neither a city nor a county in which
2 18 a qualified facility is located has enacted an ordinance under
2 19 section 427B.26, or a qualified facility is not eligible for
2 20 special valuation pursuant to an ordinance adopted by a city
2 21 or a county under section 427B.26, the owner must first
2 22 receive approval of the applicable city council or county
2 23 board of supervisors of the city or county in which the
2 24 qualified facility is located in order to be eligible to
2 25 receive the wind energy production tax credit. The
2 26 application for approval may be submitted prior to
2 27 commencement of the construction of the qualified facility but
2 28 shall be submitted no later than the close of the owner's
2 29 first taxable year for which the credit is to be applied for.
2 30 The application must contain the owner's name and address, the
2 31 address of the qualified facility, and the dates of the
2 32 owner's first and last taxable years for which the credit will
2 33 be applied for. Within forty-five days of the receipt of the
2 34 application for approval, the city council or county board of
2 35 supervisors, as applicable, shall either approve or disapprove
3 1 the application. After the forty-five-day limit time period
3 2 has expired, the application is deemed to be approved.

3 3 b- (2) Upon approval of the an application submitted
3 4 pursuant to subparagraph (1), the owner may apply for the tax
3 5 credit as provided in subsection 2. In addition, approval of
3 6 the application submitted pursuant to subparagraph (1) is
3 7 acceptance by the applicant for the assessment of the
3 8 qualified facility for property tax purposes for a period of
3 9 twelve years and approval by the city council or county board
3 10 of supervisors, as applicable, for the payment of the property
3 11 taxes levied on the qualified property to the state. For
3 12 purposes of property taxation, the qualified facility
3 13 receiving approval of an application submitted pursuant to
3 14 subparagraph (1) shall be centrally assessed and shall be
3 15 exempt from any replacement tax under section 437A.6 for the
3 16 period during which the facility is subject to property
3 17 taxation. The property taxes to be paid to the state are
3 18 those property taxes which make up the consolidated tax levied
3 19 on the qualified facility and which are due and payable in the
3 20 twelve-year period beginning with the first fiscal year
3 21 beginning on or after the end of the owner's first taxable
3 22 year for which the credit is applied for. Upon approval of
3 23 the application, the city council or county board of
3 24 supervisors, as applicable, shall notify the county treasurer
3 25 to state designate on the tax statement which lists the taxes
3 26 on the qualified facility ~~that~~ the amount of the property
3 27 taxes ~~shall to~~ be paid to the department. Payment of the
3 28 designated property taxes to the department shall be in the
3 29 same manner as required for the payment of regular property
3 30 taxes and failure to pay designated property taxes to the
3 31 department shall be treated the same as failure to pay
3 32 property taxes to the county treasurer.

3 33 c. Once the owner of the qualified facility receives
3 34 approval under paragraph "a" "b", subsequent approval under
3 35 paragraph "a" "b" is not required for the same qualified
4 1 facility for subsequent taxable years.

4 2 Sec. 5. Section 476C.3, subsection 3, Code 2009, is
4 3 amended to read as follows:

4 4 3. A facility that is not operational within thirty months
4 5 after issuance of an approval for the facility by the board
4 6 shall cease to be an eligible renewable energy facility.
4 7 However, a wind energy conversion facility that is approved as
4 8 eligible under this section but is not operational within
4 9 eighteen months due to the unavailability of necessary
4 10 equipment shall be granted an additional ~~twelve~~ twenty-four
4 11 months to become operational. A facility that is granted and
4 12 thereafter loses approval may reapply to the board for a new
4 13 determination.

4 14 Sec. 6. Section 476C.3, subsection 4, Code 2009, is
4 15 amended to read as follows:

4 16 4. The maximum amount of nameplate generating capacity of
4 17 all wind energy conversion facilities the board may find
4 18 eligible under this chapter shall not exceed ~~one~~ three hundred
4 19 ~~eighty~~ thirty megawatts of nameplate generating capacity. The
4 20 maximum amount of energy production capacity equivalent of all
4 21 other facilities the board may find eligible under this
4 22 chapter shall not exceed a combined output of twenty megawatts
4 23 of nameplate generating capacity and one hundred sixty-seven
4 24 billion British thermal units of heat for a commercial
4 25 purpose. Of the maximum amount of energy production capacity
4 26 equivalent of all other facilities found eligible under this

4 27 chapter, fifty-five billion British thermal units of heat for
4 28 a commercial purpose shall be reserved for an eligible
4 29 facility that is a refuse conversion facility for processed,
4 30 engineered fuel from a multicounty solid waste management
4 31 planning area. The maximum amount of energy production
4 32 capacity the board may find eligible for a single refuse
4 33 conversion facility is fifty-five billion British thermal
4 34 units of heat for a commercial purpose.

4 35 Sec. 7. REFUNDS. Refunds of taxes, interest, or penalties
5 1 which may arise from claims resulting from the amendment of
5 2 section 476B.4 in this Act, for the exemption of sales of wind
5 3 energy conversion property as provided in section 423.3,
5 4 subsection 54, occurring between January 1, 2008, and the
5 5 effective date of this Act, shall be limited to one hundred
5 6 thousand dollars in the aggregate and shall not be allowed
5 7 unless refund claims are filed prior to October 1, 2009,
5 8 notwithstanding any other provision of law. If the amount of
5 9 claims totals more than one hundred thousand dollars in the
5 10 aggregate, the department of revenue shall prorate the one
5 11 hundred thousand dollars among all claimants in relation to
5 12 the amounts of the claimants' valid claims. Claimants shall
5 13 not be entitled to interest on any refunds.

5 14 Sec. 8. RENEWABLE ENERGY TAX CREDIT ELIGIBILITY STUDY.
5 15 The utilities board of the utilities division of the
5 16 department of commerce shall conduct a study to evaluate
5 17 whether procedures applicable to eligible renewable energy
5 18 facilities which have been approved for the renewable energy
5 19 tax credit but are not yet operational pursuant to section
5 20 476C.3, subsection 3, and eligible renewable energy facilities
5 21 which have been placed on a waiting list for approval pursuant
5 22 to section 476C.3, subsection 5, are in need of modification.
5 23 The study shall include a survey of each facility which has
5 24 been approved to determine the extent to which progress has
5 25 been made toward achieving operational status. The study
5 26 shall also include a survey of each facility which has been
5 27 determined eligible and is awaiting approval, to ascertain
5 28 whether the facility continues to seek approval and is
5 29 committed to becoming operational once approval is obtained.
5 30 Based on the results of the surveys, the board shall submit
5 31 recommendations to the general assembly by January 1, 2010,
5 32 regarding whether statutory or procedural modifications are
5 33 necessary to ensure that facilities are being effectively and
5 34 efficiently maintained in an approved or eligible status.

5 35 Sec. 9. EFFECTIVE AND APPLICABILITY DATES. The sections
6 1 of this Act amending sections 476B.4 and 476B.6, being deemed
6 2 of immediate importance, take effect upon enactment and apply
6 3 retroactively to January 1, 2008, for tax years beginning on
6 4 or after that date.

6 5 EXPLANATION

6 6 This bill modifies eligibility requirements applicable to
6 7 the wind energy production tax credit established in Code
6 8 chapter 476B and the renewable energy tax credit established
6 9 in Code chapter 476C.

6 10 With regard to the wind energy production tax credit, the
6 11 bill adds to the definition of "qualified facility", for
6 12 applications filed on or after July 1, 2009, by a private
6 13 college or university, community college, institution under
6 14 the control of the state board of regents, or public hospital
6 15 as defined in Code section 249J.3, for the applicant's own use
6 16 of qualified electricity a wind turbine with a combined
6 17 nameplate capacity of three-fourths of a megawatt or greater.

6 18 The bill deletes a provision which had prevented
6 19 eligibility for the wind energy production tax credit for any
6 20 kilowatt-hour of electricity produced on wind energy
6 21 conversion property for which the owner had claimed or
6 22 received specified special property tax valuation or sales tax
6 23 exemptions, thus preserving credit availability for owners
6 24 having received special valuation or having claimed the sales
6 25 tax exemptions. Because of the retroactivity of the
6 26 elimination of the restriction of the receipt of the tax
6 27 credit to those who have not received the sales tax exemption,
6 28 a provision for refund of sales tax paid is included in the
6 29 bill. These provisions take effect upon enactment and apply
6 30 retroactively to January 1, 2008, for tax years beginning on
6 31 or after that date.

6 32 The bill changes a provision specifying the maximum amount
6 33 of nameplate generating capacity of all qualifying facilities
6 34 under Code chapter 476B, currently at 450 megawatts of
6 35 nameplate generating capacity, to 150 megawatts.

7 1 With regard to the renewable energy tax credit, the bill
7 2 provides for an extension of time for a wind energy conversion

7 3 facility to become operational following issuance of an
7 4 approval from the current period of 12 additional months to 24
7 5 additional months.

7 6 The bill changes a provision specifying the maximum amount
7 7 of nameplate generating capacity for all eligible wind energy
7 8 conversion facilities under Code chapter 476C, currently at
7 9 180 megawatts of nameplate generating capacity, to 330
7 10 megawatts.

7 11 Additionally, the bill directs the utilities board of the
7 12 utilities division of the department of commerce to conduct a
7 13 study to evaluate whether procedures applicable to eligible
7 14 renewable energy facilities which have been approved for the
7 15 renewable energy tax credit under Code chapter 476C but are
7 16 not yet operational, and facilities which have been placed on
7 17 a waiting list for approval, are in need of modification. The
7 18 board is required to submit recommendations to the general
7 19 assembly by January 1, 2010, regarding whether statutory or
7 20 procedural modifications appear necessary.

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